

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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DISTRICT OF UTAH
BY: _____
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LIVING RIVERS, INC., a non-profit, Utah
corporation;

Plaintiff,

vs.

UNITED STATES BUREAU OF
RECLAMATION,

Defendant.

Case No.

2-02CV-0644 TC

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. The United States Bureau of Reclamation ("the Bureau") has violated the Freedom of Information Act ("FOIA"), by denying documents requested by plaintiff Living Rivers. The documents are "inundation maps" for Hoover Dam and Glen Canyon Dam, release of which the Bureau has denied based on Exception 2 of FOIA, which allows federal agencies to exempt documents from disclosure that are "related solely to the internal personnel rules and practices of an agency." 5 U.S.C. § 552(b)(2). Living Rivers needs these maps to assess the social, environmental and economic costs resulting from dam failures at Hoover and Glen Canyon Dams, so that this analysis can be used by potentially affected communities and tribes in evaluating approaches to Colorado River management that could reduce or eliminate the risks associated with such failures. This action seeks an order declaring that the Bureau improperly denied the document request, and enjoining the Bureau to provide the documents to Living Rivers.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B).

3. Venue in this Court is proper under 5 U.S.C. § 552(a)(4)(B) (district where plaintiff resides and/or where the agency records are situated).

III. PARTIES

4. Plaintiff LIVING RIVERS, INC. is a non-profit Utah corporation with its main office in Moab, Utah. Its mission is to protect and restore the Colorado River ecosystem. It does so through public education and mobilization, advocacy to state and federal agencies, and litigation when necessary. Living Rivers relies on information gained from federal agencies through FOIA, including the documents sought here, to achieve these missions, and is irreparably harmed when it is improperly denied such information. By being denied the inundation maps, Living Rivers has been harmed by not being able to inform its members and the public of the dangers of catastrophic breach of Hoover Dam and Glen Canyon Dam, and by being denied information needed to analyze and formulate management alternatives for the Colorado River.

5. Defendant UNITED STATES BUREAU OF RECLAMATION is a federal agency within the U.S. Department of Interior. The Bureau is in possession of the requested documents, and is required to provide documents to the public pursuant to FOIA unless those documents are properly exempt from disclosure.

IV. FACTS

6. On September 19, 2001, Living Rivers sent a FOIA request to the Bureau requesting “a copy of all inundation maps, including those pertaining to dam failure, which have been prepared by the U.S. Bureau of Reclamation for the area below Hoover Dam.” That same day, Living Rivers sent a nearly identical letter to the Bureau, requesting the same information, but for Glen Canyon Dam.

7. On November 8, 2001, the Bureau denied the request pertaining to Hoover Dam, and on November 19, 2001, denied the request pertaining to Glen Canyon Dam. Both denials relied upon Exemption 2 of FOIA, which provides that an agency may withhold documents from disclosure “related solely to the internal personnel rules and practices of an agency.” 5 U.S.C. § 552(b)(2).

8. On December 10, 2001, Living Rivers appealed these decisions to the Bureau in a single appeal, pursuant to FOIA’s administrative appeal provision found at 5 U.S.C. § 552(a)(6)(A). On April 2, 2002, the Bureau denied the appeal and affirmed its withholding of the requested documents, again based on Exemption 2.

V. CLAIM FOR RELIEF

9. The preceding paragraphs are incorporated here by reference.

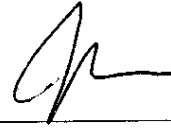
10. The Bureau has “improperly withheld” the documents requested by Living Rivers under Exemption 2, and so has violated FOIA. 5 U.S.C. § 552(a)(4)(B).

VI. REQUEST FOR RELIEF

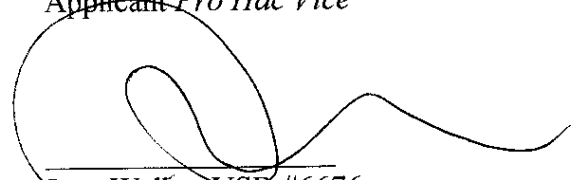
FOR THESE REASONS, plaintiffs respectfully request that this Court enter judgment providing the following relief:

1. Declare that the Bureau improperly withheld the requested inundation maps from Living Rivers under Exemption 2, in violation of FOIA;
2. Enjoin the Bureau to provide Living Rivers with the inundation maps they have requested;
3. Grant Living Rivers its costs of litigation, including reasonable attorney fees as provided by FOIA, 5 U.S.C. § 552(a)(4)(E); and
4. Provide such other relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED July 3, 2002



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